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| | First Named Inventor | GODLEWSKI, PETER |
| | Art Unit | 3627 |
| | Examiner Name | Fischer, Andrew J. |
| Total Number of Pages in This Submission | Attorney Docket Number | 016166-001800US |

| ENCLOSURES (Check all that apply) | | |
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| Firm or Individual | Townsend and Townsend and Crew LLP Patrick M. Boucher | Reg. No. 44,037 |
| Signature | | |
| Date | April 15, 2004 | |

GROUP 3600

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By Nina L. McNeill
Nina L. McNeill



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Peter Godlewski et al.

Application No.: 09/624,154

Filed: July 24, 2000

For: SYSTEMS AND METHODS FOR
PURCHASING, INVOICING AND
DISTRIBUTING ITEMS

Examiner: Fischer, Andrew J.

Art Unit: 3627

REQUEST FOR REINSTATEMENT

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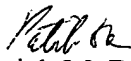
In response to Applicants' Appeal Brief filed on October 17, 2003, prosecution was reopened. Applicants hereby request that the Appeal be reinstated and has filed a Supplemental Appellant Brief as required by 37 C.F.R. 1.193(a)(2)(ii) concurrently herewith.

It is believed that no fee is required for filing the Request for Reinstatement. Should the Patent Office determine otherwise, please deduct the requisite fee from Deposit Account No. 20-1430.

Peter Godlewski et al.
Application No.: 09/624,154
Page 2

PATENT

Respectfully submitted,


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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of:

Peter Godlewski et al.

Application No.: 09/624,154

Filed: July 24, 2000

For: SYSTEMS AND METHODS FOR
PURCHASING, INVOICING AND
DISTRIBUTING ITEMS

Examiner: Fischer, Andrew J.

Technology Center/Art Unit: 3627

SUPPLEMENTAL APPELLANT BRIEF

Mail Stop Appeal Brief - Patents
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Alexandria, VA 22313-1450

Sir:

Appellant offers this Supplemental Brief in support of the Request for
Reinstatement of Appeal submitted concurrently. This Brief is submitted in triplicate as required
by 37 CFR §1.192(a).

1. Real Parties in Interest

The real parties in interest are Omnicell, Inc. and DispenseSource, Inc.

2. Related Appeals and Interferences

No other appeals or interferences are known that will directly affect, are directly affected by, or have a bearing on the Board decision in this appeal.

3. Status of Claims

Claims 1 – 15 and 31 – 35 are currently pending in the application. All pending claims stand rejected pursuant to an Office Action mailed February 17, 2004 (paper no. 21, hereinafter “the Office Action”). The Office Action reopened prosecution in response to Appellant’s filing of an Appeal Brief on October 17, 2003 (paper no. 20).

During prosecution, original Claims 16 – 30 and 36 – 55 were canceled; and original Claims 1, 31, and 32 were amended.

The rejections of pending Claims 1 – 15 and 31 – 35 are believed to be improper and are the subject of this appeal. A copy of the claims as rejected is attached as an Appendix.

4. Status of Amendments

No amendments have been filed subsequent to the final rejection mailed August 14, 2003.

5. Summary of the Invention

In one embodiment, the claimed invention relates to a method for supplying items to a plurality of dispensing units (Application, p. 2, ll. 20 – 21). The dispensing units may each hold a plurality of multiple distinct items, such as manufacturer, repair, and operations supplies,

medical and pharmaceutical supplies, and the like (*id.*, p. 9, ll. 25 – 26; p. 7, ll. 28 – 29). An example of a suitable dispensing unit is one that has an enclosure with adjustable shelves, each of which has multiple storage locations (*id.*, p. 8, ll. 9 – 13). Touch-sensitive buttons on the shelves near each storage location may be connected to a processor that receives signals from the buttons when actuated (*id.*, p. 8, ll. 13 – 16), allowing removal or replenishment of items in the unit to be monitored (*id.*, p. 8, ll. 16 – 26). The dispensing units have electronics that permits access to a server computer over a network (*id.*, p. 10, ll. 7 – 8), with the server computer having computer code to periodically poll the dispensing units to download stock-level and transaction information (*id.*, p. 10, ll. 8 – 10).

This restocking information is used by the server computer to aggregate the number and types of items to be restocked into the dispensing units (*id.*, p. 10, ll. 13 – 14). The aggregated restocking information is used to generate ordering information, identifying items to be reordered, their quantities, and suppliers, and the reordering information is transmitted over the network to an application computer (*id.*, p. 10, ll. 14 – 17). The application computer operates a hosted procurement application to procure restock quantities, and may include features that allow such operations as approving, modifying, or rejecting orders, changing suppliers, and the like (*id.*, p. 10, ll. 24 – 32).

Restocking of the dispensers may then proceed by transmitting orders with the hosted procurement application to supplier computers (*id.*, p. 11, ll. 16 – 17) so that suppliers may determine how to fill the orders (*id.*, p. 11, ll. 24 – 25). Advantageously, the suppliers may receive purchase orders electronically that are produced using an automated system that aggregates demand as items are consumed (*id.*, p. 11, ll. 21 – 23). An advanced shipping notice is returned to the application computer, specifying such information as the types and quantities of items being shipped (*id.*, p. 11, ll. 25 – 31). Items are shipped by the supplier and restocked into the dispensing units so that the restocked items may be reconciled with the advanced shipping notice (*id.*, p. 12, ll. 8 – 17). A confirmation receipt is generated electronically by each dispensing unit for transmission back through the network to the supplier computers (*id.*, p. 12, ll. 17 – 25), which may generate an invoice based on the receipt for transmission to the application computer (*id.*, p. 12, ll. 30 – 33).

6. Issues

Issue 1: Whether under 35 U.S.C. §102(e) Claims 1, 3, and 31 – 34 are anticipated by U.S. Pat. No. 6,204,763 (“Sone”). The Examiner’s position on this issue is described in paragraphs 6 – 9 on pages 3 – 5 of the Office Action.

Issue 2: Whether under 35 U.S.C. §103(a) Claims 1, 3, and 31 – 34 are unpatentable over Sone in view of U.S. Pat. No. 5,168,445 (“Kawashima”). The Examiner’s position on this issue is described in paragraph 11 on pages 5 – 6 of the Office Action.

Issue 3: Whether under 35 U.S.C. §103(a) Claims 2, 4 – 15, and 35 are unpatentable over Sone in view of U.S. Pat. No. 6,341,271 (“Salvo”). The Examiner’s position on this issue is described in paragraph 12 on pages 6 – 7 of the Office Action.

Issue 4: Whether under 35 U.S.C. §103(a) Claims 2, 4 – 15, and 35 are unpatentable over the combination of Sone and Kawashima in further view of Salvo. The Examiner’s position on this issue is described in paragraph 13 on pages 7 – 8 of the Office Action.

7. Grouping of the Claims

For purposes of this appeal, the claims are grouped as follows. Group 1 pertains to Issues 1 and 2; Group 2 pertains to Issues 3 and 4; and Group 3 pertains to Issues 3 and 4.

Group 1: Claims 1, 3, and 31 – 34;

Group 2: Claims 2, 4 – 11, and 35; and

Group 3: Claims 12 – 15.

Appellant reserves the right outside the context of this appeal to argue independent patentability of the grouped claims.

8. Argument

a. Use of Uncited Material

In the Brief filed October 17, 2003, Appellants noted that the Examiner had intimated that other art of record but not specifically cited in the Final Office Action had been applied in rejecting the claims. The Examiner now appears to have recanted that suggestion, indicating that “*all* materials used have been *cited* in an office action” (Office Action, 18, ¶p. 11, emphasis in original). In light of the Examiner’s acknowledgment that the rejections do not rely on material not cited in the Office Action, this argument is withdrawn.

b. Group 1: Claims 1, 3, and 31 – 34

i. Issue 1: Patentability of Group 1 Claims Under §102(e) Over Sone

Each of Claims 1, 3, and 31 – 34 stands rejected under 35 U.S.C. §102(e) as anticipated over Sone. Sone describes an automatic replenishment system that maintains a desired inventory of household consumable items (Sone, abstract). The particular arrangement shown is Sone includes an “intelligent refrigerator” that monitors its content for a variety of different items (*id.*, Col. 5, ll. 44 – 46; Col. 6, ll. 24 – 38). As items are used in a household that has the intelligent refrigerator, a computer generates a list of items that require replenishment (*id.*, Col. 6, ll. 61 – 62). The list is transmitted to a store shopping server so that items on the list may be replenished by store personnel (*id.*, Col. 6, ll. 62 – 66). Sone is clearly directed at describing the intelligent refrigerator and communications with the store shopping server; it provides no specific disclosure of how the replenishment is accomplished, other than to suggest that it is performed by “store personnel.”

While Sone does not specifically disclose how inventory operations are managed by the store, it is useful in addressing the rejections to consider as an illustration how such inventory operations might be performed by a store that does not interact with the intelligent refrigerator of Sone. Such a store may stock a number of products at certain inventory levels. Customers visit the store and select some of the items for purchase. Without particular regard for which customer is purchasing which products, the store monitors the inventory level for each product, issuing requests to distributors for replenishment when the inventory levels fall below a certain level. The intelligent refrigerator taught by Sone may be used as a surrogate for customer visits without changing the basic inventory management of such a store. For example, rather than have a customer visit the store to select items, the store receives an electronic request from the intelligent refrigerator so that a clerk may remove the items from inventory and have them sent to the customer. The inventory levels in the store may now be affected both by purchases made by customers who visit the store in person and by purchases made through electronic requests from the intelligent refrigerator, but the basic inventory management proceeds as before — the store monitors the inventory level for each product without particular regard for which customer purchases the products or for whether they are purchased in person or by electronic request, issuing requests to distributors for replenishment when the inventory levels fall below a certain level. While this example is not specifically disclosed in Sone, it is a realistic arrangement that is useful to illustrate why certain features identified in the Office Action as inherent in Sone are not actually inherent.

To support a rejection under 35 U.S.C. §102, the Examiner is charged with demonstrating that the cited reference teaches every element of the claim either expressly or inherently. Manual of Patent Examining Procedure, Eighth Edition, First Revision, February, 2003 (hereinafter “MPEP”) 706.02. Any feature not taught directly must be inherently present, with inherency requiring that the element *necessarily* be present in the reference. MPEP 2112. “The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” MPEP 2112 (emphasis in original).

There is nothing in Sone to suggest those limitations recited in independent Claims 1, 31, and 32 related to restocking.¹ In particular, Sone fails to disclose aggregating the restock quantities over a plurality of dispensing units, fails to disclose generating ordering information for the items to be restocked based on the aggregated restocking information, and fails to disclose electronically sending the ordering information to supplier computers. Instead, Sone teaches only that replenishment be accomplished by store personnel, a function that may easily be performed by the personnel examining the replenishment list transmitted to the store shopping server for a single intelligent refrigerator, and selecting the items from existing inventory. As illustrated in the example described above, there is nothing to suggest that supplies by the store need be maintained by doing anything other than monitoring inventory levels as a whole.

The Office Action's statement that it is inherent to aggregate restock quantities is therefore incorrect since the claim requires aggregation over a plurality of dispensing units. In addressing this limitation, the Office Action makes the following statement, which addresses aggregation only for a *single* dispensing unit:

aggregating the restock quantities over the plurality of dispensing units for each of the multiple distinct items (occurs on the user['s] bill, e.g. if milk was delivered twice, the user would have milk delivery twice on their bill; alternatively, the four (4) toilet paper rolls as shown in figure 2); (Office Action, ¶6).

This statement clearly reflects that the aggregation is being viewed in the Office Action for a single dispensing unit, and not over a plurality of dispensing units as the claims require.

In determining that aggregation of restock quantities is inherent in Sone, the Office Action states that “[i]t is the Examiner’s position that *it is more likely than not* that the

¹ The Office Action takes issue with the strength of this statement (Office Action, ¶20, pp. 11 – 12), previously made in the Appeal Brief filed October 17, 2003. The Office Action correctly notes that much of Sone is, of course, related to restocking, referring even in its title to “replenishment.” But the mere fact that Sone is concerned with restocking as a general matter does not mean that the specific limitations recited in independent Claims 1, 31, and 32 related to restocking are suggested there. In this context, the Office Action’s citation of *S3 Inc. v. nVIDIA Corp.* 259 F.3d 1364, 1371, 59 USPQ2d 1745, 1749 – 50 (Fed. Cir. 2001) as suggesting that there is no need for a specific teaching or suggestion in Sone for these limitations is entirely misplaced. The cited portion of that case is concerned with the written description requirement of 35 U.S.C. §112, ¶1 and reiterates the well-known principle that that requirement must be viewed in the context of the skill of the audience to whom patent disclosures are directed. Nothing in the case alters the well-established requirement that every element of a claim must be disclosed, expressly or inherently, to support a rejection under 35 U.S.C. §102.

Retailer in Sone would aggregate before placing an order with its distributor” (Office Action, ¶8, p. 4). But this is a misstatement of the standard for inherency, which requires that the limitation *necessarily* be present in the reference, not merely that it be “more likely than not.” MPEP 2112. The illustration provided above also exposes the fallacy in the Office Action’s assertion that “if the store did *not* aggregate, the Retailer would place an order with its Distributor for a single roll of paper towel when a customer ordered a single roll of paper towel” (*id.*, ¶8, pp. 4 – 5).

Aggregation in the manner claimed is not needed in Sone since a store may simply monitor inventory levels without particular concern as to which customers are purchasing items, and may place orders with distributors in response to changes in those inventory levels, in much the same way as may be done in a store that does not use the intelligent refrigerator.

The Office Action also takes the position that electronically sending the ordering information to supplier computers is inherent (*id.*, ¶6 and ¶9, p. 5), but there are, of course, many ways in which stores might maintain their inventories, including by having standing contracts for periodic delivery, transmitting mail or telephone requests for further inventory, and the like. It is believed that most stores actually rely on these other types of methods and nothing in Sone suggests that it is *necessary* for there to be electronic transmission of the ordering information. In explaining this determination, the Office Action again misstates the standard for inherency, remarking that “*it is more likely than not* that Sone would send the restocking information electronically” (*id.*, ¶9, p. 5, *emphasis added*), rather than demonstrating that the limitation is *necessarily* present in the reference as required. MPEP 2112. The Office Action wishes to extend the electronic communication used in Sone between the intelligent refrigerator and the store shopping server (Sone, Col. 6, l. 61 – Col. 7, l. 11) to the communications between the store and its suppliers. But the nature of the relationship of the store with its suppliers may be much different than its relationship with customers, and Sone’s silence on communications between the store and its suppliers belies the assertion that they must necessarily be performed electronically with supplier computers.

ii. Issue 2: Patentability Of Group-1 Claims Under §103(a) Over Sone in view of Kawashima

The Office Action sets forth an alternative rejection for Claims 1, 3, and 31 – 34 under §103(a) that if certain limitations are not inherent in Sone, then they are obvious in view of Kawashima. To support a rejection under 35 U.S.C. §103(a), the Examiner is charged with factually supporting a *prima facie* case of obviousness, which requires, *inter alia*, that all limitations of the claims be taught or suggested by the cited references and that there be some suggestion or motivation to combine the reference teachings as proposed. MPEP 2143.

Kawashima is directed generally to a method and system that allows inventory orders to be generated in a fashion that responds to changing demands for individual goods (Kawashima, Col. 1, ll. 35 – 42). The Office Action provides no specific citations to portions of Kawashima as support for its assertion that Kawashima has teachings “to include electronically sending ordering information to a supplier and to include aggregating the restock quantities over a plurality of dispensing units for each of the multiple distinct items” (Office Action, ¶11, pp. 5 – 6). Appellants respectfully disagree that these limitations are taught in Kawashima. Indeed, Kawashima teaches away from these limitations, suggesting instead handling the inventory in a manner similar to the illustration discussed above in connection with the §102 rejections. Such teaching away has long been recognized as a factor that strongly suggests that the proposed modification is *not* obvious.

In particular, Kawashima teaches a self-contained system that receives information from a “worker”² in order to generate an order slip that reflects order amounts that accommodate variations in customer demand for goods (Kawashima, Col. 3, ll. 7 – 26). There is no disclosure of aggregating restock quantities over a plurality of dispensing units. Instead, Kawashima focuses only on monitoring total inventory, as may be achieved by connecting the system to a stock-control system as shown in Fig. 14 (*see id.*, Col. 7, ll. 34 – 43; *see also id.*, Col. 2, ll. 62 – 65). An example of the stock data is provided in Fig. 8 of Kawashima, which shows only discrimination of stock amounts of particular goods by day, not according to a plurality of dispensing units (*see id.*, Col. 4, ll. 54 – 64). The system may additionally make use of sales data as provided by a point-of-sale system also shown in Fig. 14 (*see id.*, Col. 7, ll. 34 – 43; *see also*

² Kawashima appears to have been translated from Japanese; references to the “worker” appear to refer to a clerk responsible for maintaining inventory.

id., Col. 2, ll. 62 – 65). There is also no disclosure of electronically sending the ordering information to one or more supplier computers as required by the claims. Instead, Kawashima teaches the generation of an order slip (*id.*, Col. 6, ll. 40 – 43), an example of which is shown in Fig. 12 of Kawashima and from which the worker may initiate orders of desired amounts.

c. Group 2: Claims 2, 4 – 11, and 35

i. Issue 3: Patentability of Group-2 Claims Under §103(a) Over Sone in view of Salvo

Each of Claims 2, 4 – 11, and 35 stands rejected under 35 U.S.C. §103(a) as unpatentable over Sone in view of Salvo. As previously noted, a rejection under 35 U.S.C. §103(a) requires the Examiner to factually support a *prima facie* case of obviousness by demonstrating, *inter alia*, that all limitations of the claims be taught or suggested by the cited references and that there is some suggestion or motivation to combine the reference teachings as proposed. MPEP 2143. The rejections of the claims of Group 2 are deficient in at least both these respects.

All of the claims of Group 2 are dependent on claims of Group 1 and are therefore patentable by virtue of the patentability of the claims of Group 1.³ Furthermore, the several claim limitations of the independent claims that are not disclosed in Sone are also not disclosed in Salvo. Salvo discloses an inventory management system that is designed specifically for receptacles that hold a single type of item. This is evident, for example, from the fact that the amount of inventory in a receptacle is determined by using a sensor that permits a determination of volume (or a surrogate for volume, such as weight and density of the inventory) (Salvo, Col. 4, ll. 46 – 58). In contrast, the claims instead require functions that are performed in relation to dispensing units that hold a plurality of each of multiple distinct items. This fundamental difference between Salvo and the claims is manifested in independent claims underlying the claims of Group 2 in at least the requirements of aggregating restock quantities for each of the multiple distinct items and generating ordering information based on the aggregated restocking

³ The Office Action additionally notes that this rejection “relies on the anticipation rejection” (Office Action, 12, p. 7).

information. Salvo fails even to contemplate that restock quantities could be available for multiple distinct items in a plurality of dispensing units, let alone to teach or suggest the claim limitations that make use of such a feature.

There is also no motivation to combine Sone with Salvo in the manner suggested in the Office Action. Various of the claim limitations for which the Office Action relies on Salvo are directed to aspects of procurement for the aggregated restocking information, but Sone teaches away from such aggregation by its focus on individual homes. Stated differently, the scales of application envisaged by Sone and Salvo are widely divergent. Sone contemplates restocking consumable items for an individual home, providing examples of a few cans of food, a few rolls of toilet paper and paper towel, a carton of milk, and the like (Sone, Fig. 1 and Col. 6, ll. 9-23). Salvo, by contrast, is concerned with inventory at the scale of silos of material at manufacturing sites (Salvo, Col. 3, ll. 42-48). At this scale, the historical-trend and forecasting analytical tools used by Salvo may be valuable.

An attempt to combine Salvo with Sone as suggested in the Office Action would require changing the principle of operation of Sone, a factor that has long been recognized as indicating that the modification is *not* obvious. MPEP 2143.01. This is well illustrated with the example provided by the Examiner:

[I]t would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Sone as taught by Salvo and include various aspects of Salvo's vendor managed inventory system to the vendor side of Sone. In particular, this would include Salvo's vendor management tools.... Such a modification would have further reduced delays, costs of ordering, and inventory turn around times.

Additionally the modification would have helped synchronize inventory ordering and delivery so that food-related items are not out of stock in the home and that perishable goods spend as little as [*sic*] time as possible in transit. For example, suppose milk inventory becomes low in a particular home every Saturday morning because children in the home are having cereal with milk while watching cartoons. Using the vendor's historical trend analysis tool as implemented in Salvo, automatic ordering and subsequent delivery of milk could occur every Saturday afternoon.

(Office Action, ¶12, pp. 6-7).

While statistical trend-analysis and forecasting tools may be suitable for inventories held in silos and measured in feet or pounds (Salvo, Col. 11, ll. 33-36), they are not of much value at the small scales contemplated by Sone since variations are relatively more pronounced in smaller systems. Rather than use such tools, Sone specifically teaches responding

to inventory changes for individual items in a home and monitoring freshness of perishable items with weight and/or expiration-date information (Sone, Col. 6, ll. 25 – 49). In the context of the Examiner's example, this already allows the system in Sone to respond to use of milk on Saturdays by noting the decrease in inventory and transmitting a request for replenishment. Furthermore, the arrangement in Sone is more versatile in that it allows for accommodation of variations in these smaller systems. For instance, if one of the children is ill on a particular Saturday and doesn't use milk, no request for replenishment will be issued and there will be no wasteful delivery on Saturday afternoon; similarly, if another family visits during a midweek holiday and more milk is used, there will not be a shortage since an earlier request for replenishment will be issued.

The Court of Appeals for the Federal Circuit has repeatedly emphasized the need to apply the requirement that there be a motivation to combine references rigorously, cautioning that such rigor is "the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis." *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Circ. 1999). "The need for specificity pervades this authority." *In re Lee*, 61 USPQ2d 1430, 1433 (Fed Cir. 2002). In this instance, the Examiner appears to be engaging in exactly the impermissible hindsight analysis that the rigorous nature of the requirements is intended to prevent. Particularly in view of the very different scales of application, the proffered reasoning does not "explain the reasons one of ordinary skill in the art would have been motivated *to select the references* and to combine them to render the claimed invention obvious." *In re Rouffet*, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998, emphasis added). No convincing basis has been shown why one skilled in restocking a few consumable items in an individual home would be motivated to select a reference describing management of silos of material at manufacturing sites.

ii. Issue 4: Patentability of Group-2 Claims Under §103(a) Over the combination of Sone and Kawashima in further view of Salvo

Each of Claims 2, 4 – 11, and 35 also stands rejected under 35 U.S.C. §103(a) as unpatentable over the combination of Sone and Kawashima in further view of Salvo. These rejections are believed to be improper for substantially the same reasons discussed previously,

namely that certain limitations are not disclosed in any of the references and because there is no motivation to combine Salvo with Sone and Kawashima. In particular, for the reasons discussed above, none of the references teaches or suggests the limitations of aggregating restock quantities over a plurality of dispensing units and of generating ordering information based on aggregated restocking information. There is, furthermore, no motivation to combine Salvo with the other references because it is concerned with inventory problems at a completely different scale of application and because the combination would require a change in the principle of operation of Sone.

d. Group 3: Claims 12 – 15

Each of Claims 12 – 15 stands rejected under 35 U.S.C. §103(a) as unpatentable either over Sone in view of Salvo (Issue 3) or over the combination of Sone and Kawashima in further view of Salvo (Issue 4). In either case, the Office Action appears to rely on Salvo as disclosing the limitations that the dispensing units be restocked, that the restocked items be reconciled with an advanced shipping notice, and that a confirmation receipt be sent electronically to the server computer from the dispensing units.⁴ In particular, Appellants note that Claim 12 requires that the confirmation receipt be sent *from the dispensing units*, a limitation that is not disclosed in Salvo. In this context, Appellants note that the Examiner previously acknowledged agreement with this conclusion, stating that “Salvo does not directly disclose confirmation of receipt” (Office Action mailed September 5, 2002, paper no. 9, ¶17). The current Office Action fails to articulate what part of Salvo is relied on as disclosing those limitations; without demonstrating that all limitations are taught or suggested by the cited references, no *prima facie* case has been established for these claims. MPEP 2143.

9. Conclusion

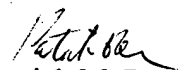
⁴ The rejections of Claims 12 – 15 no longer rely on Official Notice. Accordingly, Appellants address neither the untimeliness of the previous objection to Appellants’ traversal nor the view expressed in the Office Action that the taking of Official Notice can never properly be traversed because of the irrelevance of the noticed fact, but reserve the right to do so if necessary.

Appl. No. 09/624,154
Appeal Brief dated April 15, 2004

PATENT

Appellant believes that the above discussion is fully responsive to all grounds of rejection set forth in the application. It is believed that no fee is required for filing the Request for Reinstatement of Appeal or this Supplemental Appellant Brief. Should the Patent Office determine otherwise, however, please deduct the requisite fee from Deposit Account 20-1430.

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APPENDIX

The claims pending in the application are as follows:

1. (Previously Presented) A method for supplying items to a plurality of dispensing units, the method comprising:
 - providing a plurality of dispensing units that each hold a plurality of each of multiple distinct items, wherein the units have a processor and a memory for storing a record of inventory levels of each distinct item;
 - periodically sending restocking information from the dispensing units over a network to a server computer, wherein the restocking information includes a restock quantity for each distinct item;
 - aggregating the restock quantities over the plurality of dispensing units for each of the multiple distinct items;
 - generating ordering information for the items to be restocked based on the aggregated restocking information; and
 - electronically sending the ordering information to one or more supplier computers to order items to be restocked into the dispensing units.
2. (Original) A method as in claim 1, further comprising polling the dispensing units over the network using the server computer to obtain the quantities of the items to be restocked.
3. (Original) A method as in claim 1, further comprising generating the ordering information using the server computer, and wherein the ordering information generating step further comprises determining supplier information for the items to be ordered.

4. (Original) A method as in claim 3, electronically sending the ordering information from the server computer to an application computer having a hosted procurement application.

5. (Original) A method as in claim 4, accessing the hosted procurement application to view the ordering information on a display screen of a user computer, and further comprising producing one or more pages on the display screen of the user computer to permit the ordering information to be approved, modified or canceled.

6. (Original) A method as in claim 5, further comprising sending the ordering information from the application computer to an electronic requisition and purchasing system, and further comprising generating one or more electronic purchase order numbers using the electronic requisition and purchasing system and electronically sending the purchase order number to the application computer.

7. (Original) A method as in claim 6, further comprising electronically sending the purchase order number and the supplier information from the application computer to a business portal computer, and electronically sending the purchase order number from the business portal computer to the supplier computer based on the supplier information.

8. (Original) A method as in claim 7, further comprising electronically sending an advanced shipping notice from the supplier computer, to the business portal computer, to the application computer and to the server computer, wherein the advanced shipping notice includes information on items to be shipped, their quantities and a date of shipment.

9. (Original) A method as in claim 8, further comprising electronically sending information contained in the advanced shipping notice from the server computer to the dispensing units to apprise the dispensing units of the items and quantities to be shipped for restocking into the dispensing units.

10. (Original) A method as in claim 9, further comprising shipping at least some of the ordered items to the dispensing units that are contained in the advanced shipping notice.

11. (Original) A method as in claim 10, further comprising electronically sending information contained in the advanced shipping notice from the application computer to the user computer for items that are not stocked in the dispensing units.

12. (Original) A method as in claim 10, further comprising restocking the shipped items into the dispensing units, reconciling the restocked items with the advanced shipping notice using the dispensing unit processor, and electronically sending a confirmation receipt to the server computer from the dispensing units.

13. (Original) A method as in claim 12, further comprising electronically sending the receipt from the server computer to the supplier computers and to the electronic requisition and purchasing system.

14. (Original) A method as in claim 13, further comprising generating an electronic invoice at the supplier computer based on the receipt, and electronically sending the invoice to the business portal computer and the application computer.

15. (Original) A method as in claim 14, further comprising electronically transmitting the electronic invoice from the application computer to the electronic requisition and purchasing system, and generating payment using the electronic requisition and purchasing system.

16. – 30. (Canceled)

31. (Previously Presented) A method for supplying consigned items to a plurality of dispensing units, the method comprising:

providing a plurality of dispensing units that each hold a plurality of each of multiple distinct items on consignment from an external supplier, wherein the units have a processor and a memory for storing a record of inventory levels of each distinct item;

periodically sending restocking information from the dispensing units over a network to a server computer, wherein the restocking information includes a restock quantity for each distinct item;

aggregating the restock quantities over the plurality of dispensing units for each of the multiple distinct items;

generating ordering information for the items to be restocked based on the aggregated restocking information; and

electronically sending the ordering information to one or more supplier computers to order items to be restocked into the dispensing unit.

32. (Previously Presented) A method for supplying items to a plurality of dispensing units, the method comprising:

providing a plurality of dispensing units that each hold a plurality of each of multiple distinct items, wherein the units have a processor and a memory for storing a record of inventory levels of each distinct item;

periodically sending restocking information from the dispensing units over a network to a server computer, wherein the restocking information includes a restock quantity for each distinct item;

generating an aggregated list of distinct items and their associated quantities that are to be restocked based on the restocking information;

providing a hosted procurement application to permit manual selection of suppliers, manufacturers, and quantities for the items in the aggregated list;

generating ordering information for the items to be restocked based on the manual selection using the hosted procurement application; and

electronically sending the ordering information to one or more supplier computers to order items to be restocked into the dispensing unit.

33. (Original) A method as in claim 32, further comprising electronically posting desired items and quantities using the hosted procurement application to permit suppliers to provide electronic quotes for supplying the supplies.

34. (Original) A method as in claim 32, further comprising ordering items that are not on the aggregated list using the hosted procurement application.

35. (Original) A method as in claim 32, further comprising electronically posting suppliers, manufactures of items carried by the suppliers and their associated prices using the hosted procurement application to permit manual selection of the suppliers and manufacturers.

36. – 55. (Canceled)